

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions #: 45-001-02-1-5-00478
45-001-02-1-5-00479
45-001-02-1-5-00480
45-001-02-1-5-00481

Petitioner: Calumet College of St. Joseph

Respondent: Department of Local Government Finance

Parcels #: 001254601040031
001254601040030
001254601040029
001254601040032

Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearings as described in Ind. Code § 6-1.1-4-33 were held February 10, 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for each of the four subject properties (land only) was \$7,500 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed Forms 139L on April 23, 2004.
3. The Board issued a notice of hearing for each appeal to the parties dated July 29, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on September 15, 2004.

Facts

5. The subject properties are located on Maple Avenue in Gary.
6. The subject properties are four adjacent vacant residential lots. Each lot measures 25 by 125 feet.
7. The Special Master did not conduct an on-site inspection of the properties.
8. Assessed Value of each property as determined by the DLGF is \$7,500.

9. Assessed Value of each property requested by Petitioner is \$5,000.
10. The following persons were present and sworn as witnesses at the hearing:
For Petitioner — Robert J. Vanek, Director of Accounting Services, Calumet College of St. Joseph
For Respondent — Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble

Issue

11. Summary of Petitioner's contentions in support of alleged error in the assessment:
 - a. The Petitioner presented a limited summary appraisal from Ayers Realtors, Inc. dated March 23, 1994. This appraisal indicated a value of \$22,000 for all four parcels. *Petitioner's Exhibit 1A.*
 - b. The Petitioner also presented a Letter of Opinion of Value from Ayers Realtors, Inc. dated November 28, 2003. This letter indicates a value of \$18,000 for all four parcels. *Petitioner's Exhibit 1B.*
 - c. The Petitioner testified the four lots were sold on May 27, 2004, for \$20,000. *Petitioner's Exhibit 5.*
 - d. The lots do not and cannot have access to public utilities. *Vanek testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The four parcels were assessed using the same base rate as other properties on Maple Avenue. *Respondent's Exhibit 4.*
 - b. The properties have access to utilities by tying into existing water and sewer infrastructures or they could install septic systems as other property owners on Maple Avenue have. *Respondent's Exhibits 3, 4.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition.
 - b. The tape recording of the hearing labeled Lake Co. Tape 389.
 - c. Exhibits:
 - Petitioner Exhibit 1A: Letter of Opinion of Value from Ayers Realtors, Inc. dated March 23, 1994, indicating a total market value of all four lots is \$22,000.
 - Petitioner Exhibit 1B: Letter of Opinion of Value from Ayers Realtors, Inc. dated November 28, 2003, indicating a total market value of all four lots is \$18,000.
 - Petitioner Exhibit 2: 139L Petition.
 - Petitioner Exhibit 3: Listing Contract between Ayers Realtors, Inc. and Calumet College of St. Joseph dated January 15, 2004.
 - Petitioner Exhibit 4: Vacant Land Purchase Agreement dated March 18, 2004, between James and Tracy Wetzstein and Calumet College of St. Joseph for all four parcels for a total sale price of \$20,000.

- Petitioner Exhibit 5: Settlement Statement from Chicago Title Insurance Company dated May 27, 2004, for a contract sale price for all four parcels of \$20,000.
- Petitioner Exhibit 6: Copy of settlement check dated May 27, 2004.
- Respondent Exhibit 1: 139L Petition.
- Respondent Exhibit 2: Subject property record card.
- Respondent Exhibit 3: Map of subject properties and surrounding properties.
- Respondent Exhibit 4: Property record cards of surrounding properties.
- d. These Findings and Conclusions.

Analysis

14. The most applicable governing law is:
 - a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
 - d. Valuation date is defined as “[t]he date as of which the **true tax value** of the property is estimated. In the case of the 2002 general reassessment, this would be January 1, 1999.” 2002 REAL PROPERTY ASSESSMENT MANUAL, at 12 (incorporated by reference at 50 IAC 2.3-1-2).

15. The Petitioner did not provide sufficient evidence to support its contention. This conclusion was arrived at because:
 - a. Petitioner presented written estimations of value from 1994 and 2003. It also presented evidence of the purchase of the four parcels in 2004.
 - b. Petitioner has presented no probative evidence as to the value of the land on the valuation date of January 1, 1999. This failure is fatal to its case. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 8 (Ind. Tax Ct. January 28, 2005). Petitioners must provide some explanation as to how their evidence demonstrates or is relevant to the value of the subject property as of January 1, 1999. *Id.*

Conclusion

16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessments should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.